**NAFR**

# HIGH COURT OF CHHATTISGARH, BILASPUR

**MAC No. 112 of 2014**

1. Smt. Meena Nagwani W/o Ashok Nagwani Aged About 42 Years
2. Ashok Nagwani S/o Late Takhatmal Nagwani Aged About 45 Years

Both are R/o Juna Bilaspur, Thana- City Kotwali, Distt. Bilaspur C.G.

**----Appellants/claimants**

**Versus**

1. Sonu Singh Dhruv S/o Dashrath Dhruv R/o Sanva, Thana- Pathariya, Distt. Mungeli C.G.
2. Shekhar Sen S/o Bhagwat Sen R/o Near Kali Mandir, Tifra, Chowki- Tifra, Tah. And Distt. Bilaspur C.G.
3. The Oriental Insu. Co. Ltd. Thru- Divisional Manager, Divisional Office, Front Of Rajiv Plaza, Bus Stand, P.S. Tarbahar, Tah. And Distt. Bilaspur C.G.

**---- Respondents**

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| For Appellants | Shri Utkal Pradhan, Advocate. |
| For Respondent No.3 | Shri Pankaj Agrawal, Advocate. |

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**Hon'ble Shri Justice Gautam Chourdiya**
**Order On Board**

12/11/2018

1. This is claimant's appeal for enhancement of compensation awarded by the 6th Additional Motor Accidents Claims Tribunal, Bilaspur, C.G. in Claim Case No. 112/2013 vide award dated 30.10.2013. However, no counter appeal has been filed by the respondents.

2. As against the compensation of Rs.11,50,000/- claimed by the unfortunate parents of deceased –Santosh Nagwani by filing application under Section 166 of the Motor Vehicles Act, 1988 (for

short 'the Act') for his death in the motor accident dated 09.10.2011, the Tribunal has awarded a total sum of Rs.3,08,000/- as compensation along with interest at 7.5% per annum from the date of application till its actual payment.

3. The Tribunal, on a close scrutiny of the evidence led before it, held that the accident had occurred due to rash and negligent driving of Swaraj Majda bearing registration CG10-A-1199 by its driver Sonu Singh Dhruv; deceased –Santosh Nagwani, aged about 32 years, earning Rs.10,000/- per month as a Carpenter died on account of injuries sustained by him in the said accident; respondent No.3/the Oriental Insurance Company Limited is liable for payment of compensation as it could not establish violation of policy conditions; assessed and awarded the aforesaid amount of compensation along with interest at 7.5% per annum from the date of application till its actual payment.

4. Learned counsel for the appellants submits that the Tribunal has erred in assessing the monthly income of the deceased at Rs.3000/- whereas the deceased being a Carpenter was earning Rs.10,000/- per month. Further, the Tribunal has committed an error by not granting any amount towards future prospects whereas considering the age of the deceased, which was held by the Tribunal to be 32 years, 40% of his monthly income was to be added thereto towards future prospects in view of judgment of the Hon'ble Apex Court in the matter of ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680***. He submits that the

Tribunal has also awarded a meager amount under the conventional heads and the same is liable to be enhanced enhanced suitably.

5. On the other hand, learned counsel appearing for respondent No.3 would submit that the amount of compensation awarded by the Tribunal is just and proper compensation in the facts and circumstances of the case and needs no interference.

6. I have heard learned counsel for the parties and perused the award impugned including the record of the Tribunal.

7. So far as determination of age of the deceased to be 32 years is concerned, the same appears to be just and proper. Further, the Tribunal was justified in making 50% deduction from the income of the deceased towards his personal and living expenses as the deceased was unmarried on the date of accident and the claimants are his parents. In this case, the age of the deceased was 32 years so applying multiplier of 16 is correct. However, it appears to have fallen in error in assessing the income of the deceased at Rs.3000/- per month. From the pleadings of the claimants, the nature of job of the deceased, as also the minimum wages at the relevant time, the monthly income of the deceased can safely be taken at Rs.4,500/- i.e. Rs.54,000/- per annum. Considering the age of the deceased i.e. 32 years and the nature of his job i.e. self-employment, in view of judgment in ***Pranay Sethi*** (supra), 40% of his annual income is to be added thereto towards future prospects. Likewise, the Tribunal has also

erred in awarding Rs.5,000/-5,000/- only for funeral and loss of estate which is required to be enhanced to Rs. 20,000/- Therefore, the claimants are held entitled for compensation in the following manner:

| Head | Calculation |
|---|---|
| Income of the deceased | Rs.4,500/- x 12 = Rs.54,000/- per annum. |
| 40% towards future prospect | Rs.21,600/- Rs.54,000+Rs.21,600= 75,600/- |
| 50% deduction towards personal and living expenses of the deceased as he was unmarried. | 37,800/- |
| Multiplier of 16 applied | Rs.37,800 x 16 =6,04,800/- |
| For loss of estate, funeral expenses and for love and affection | Rs.30,000/- |
| Total | Rs.6,34,800/- |

8. Since, the Tribunal has already awarded a sum of Rs.3,08,000/-, after deducting the same from the amount as calculated above, the claimants are held for an additional compensation of Rs.3,26,800/-. This additional amount shall carry interest at the rate of 7.5% per annum from the date of claim application till its realization. The award is modified to the above extent. Rest of the conditions of the award shall remain intact.

9. No order as to costs.

Sd/-
Gautam Chourdiya
Judge

Akhilesh